
SENATE BILL 5632

State of Washington

57th Legislature

2001 Regular Session

By Senators Haugen, Patterson, Jacobsen and Rasmussen; by request of Utilities & Transportation Commission

Read first time 01/29/2001. Referred to Committee on Transportation.

1 AN ACT Relating to railroad right of way trespassing; amending RCW
2 9A.52.010; adding a new section to chapter 9A.52 RCW; and prescribing
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 9A.52.010 and 1985 c 289 s 1 are each amended to read
6 as follows:

7 The ~~((following))~~ definitions in this section apply ~~((in))~~
8 throughout this chapter~~((+))~~ unless the context clearly requires
9 otherwise.

10 (1) "Premises" includes any building, dwelling, structure used for
11 commercial aquaculture, or any real property~~((+))~~.

12 (2) "Enter~~((+))~~." The word "enter" when constituting an element or
13 part of a crime, shall include the entrance of the person, or the
14 insertion of any part of his or her body, or any instrument or weapon
15 held in his or her hand and used or intended to be used to threaten or
16 intimidate a person or to detach or remove property~~((+))~~.

17 (3) "Enters or remains unlawfully~~((+))~~." A person "enters or
18 remains unlawfully" in or upon premises when he or she is not then
19 licensed, invited, or otherwise privileged to so enter or remain.

1 A license or privilege to enter or remain in a building (~~which~~)
2 that is only partly open to the public is not a license or privilege to
3 enter or remain in that part of a building (~~which~~) that is not open
4 to the public. A person who enters or remains upon unimproved and
5 apparently unused land, which is neither fenced nor otherwise enclosed
6 in a manner designed to exclude intruders, does so with license and
7 privilege unless notice against trespass is personally communicated to
8 him or her by the owner of the land or some other authorized person, or
9 unless notice is given by posting in a conspicuous manner. Land that
10 is used for commercial aquaculture or for growing an agricultural crop
11 or crops, other than timber, is not unimproved and apparently unused
12 land if a crop or any other sign of cultivation is clearly visible or
13 if notice is given by posting in a conspicuous manner. Similarly, a
14 field fenced in any manner (~~is~~) or a railroad right of way on which
15 rails exist are not unimproved and apparently unused lands(~~(+)~~).

16 (4) "Data" means a representation of information, knowledge, facts,
17 concepts, or instructions that are being prepared or have been prepared
18 in a formalized manner and are intended for use in a computer(~~(+)~~).

19 (5) "Computer program" means an ordered set of data representing
20 coded instructions or statements that when executed by a computer cause
21 the computer to process data(~~(+)~~).

22 (6) "Access" means to approach, instruct, communicate with, store
23 data in, retrieve data from, or otherwise make use of any resources of
24 a computer, directly or by electronic means.

25 (7) "Railroad" means any form of nonhighway ground transportation
26 that runs on rails.

27 (8) "Railroad carrier" means a person providing railroad
28 transportation.

29 (9) "Railroad right of way" means the rails over which a railroad
30 can operate, structures that support the rails, the land within ten
31 feet of a rail, and the land outside that area that is owned, leased,
32 or operated by a railroad carrier and that is readily recognizable to
33 a reasonable person as being railroad property or is reasonably
34 identified as such by fencing or appropriate signs. "Railroad right of
35 way" does not include formerly used rights of way that have been
36 abandoned or converted to a nonrailroad use under orders of the United
37 States Surface Transportation Board.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 9A.52 RCW
2 to read as follows:

3 (1) Every person who enters or remains unlawfully upon a railroad
4 right of way is guilty of a misdemeanor. The only circumstances in
5 which a person may lawfully enter a railroad right of way are specified
6 in subsections (2) and (3) of this section. RCW 9A.52.090 does not
7 apply to this section.

8 (2) The following persons have lawful authority to enter a railroad
9 right of way while engaged in the performance of their official duties:
10 Employees of a railroad carrier, police officers, fire fighters, peace
11 officers, emergency response personnel, representatives of the state
12 department of transportation, representatives of the state utilities
13 and transportation commission, representatives of the federal railroad
14 administration, representatives of the national transportation safety
15 board, and union representatives of the railroad who are present on the
16 railroad's right of way for official union or railroad business.

17 (3) A person may enter railroad rights of way under the following
18 circumstances:

19 (a) When a person enters the right of way at a public crossing for
20 the purpose of crossing the right of way at that location;

21 (b) When a person has the consent or written permission of the
22 railroad carrier to enter or remain on the right of way in question.
23 This includes passengers, who are persons traveling by rail with the
24 express consent of the railroad carrier, and have consent to be on the
25 train and in areas designated by the railroad carrier. The public has
26 consent to be on the grounds of a railroad station in those areas and
27 at those times designated by the railroad carrier;

28 (c) When a person or the person's family, invitee, employee, or
29 independent contractor enters the right of way at a private crossing
30 site approved by the railroad carrier for the purpose of crossing the
31 right of way at the approved crossing to obtain access to land that the
32 person owns, leases, or operates; or

33 (d) When a person enters or remains on the right of way in an
34 emergency to rescue a person or animal or to remove an object that the
35 person reasonably believes to pose an imminent threat to life or limb.

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